

HOUSE BILL 3412

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18, relative to the regulation of certain
tracking devices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding
Sections 2 through 5 of this act as a new part.

SECTION 2.

As used in this part, unless the context otherwise requires:

(1) "Consumer notice of the RFID" means a graphical system designed to
provide a standard way to show the presence of an RFID transponder, its frequency,
and data structure, or notice given with the following text:

This product contains a radio frequency identification chip that can be read
without your knowledge if it is brought within range of a reader device.

(2) "Consumer product" means a physical object that is, or is intended to be,
used or consumed by a consumer and includes food, alcoholic and nonalcoholic
beverages, and prescription and nonprescription drugs; clothing; merchandise; motor
vehicles and their component parts; advertising and sales documents and literature; and
books, magazines, and greeting and business cards. A "consumer product" does not
include an identification document or any product to the extent that unique identification
via radio waves is an essential part of the consumer's use, including, but not limited to,
commercial mobile radio service as described in 47 U.S.C. section 332, E-Z Pass
transponders, keys, and garage door openers;

(3) "Identification document" means any document or object containing personal
information that an individual uses alone or in conjunction with any other information to

establish the individual's identity, to obtain health or medical care, to engage in government-regulated activities, or to engage in financial transactions. Identification documents shall include but shall not be limited to:

- (A) Drivers' licenses, identification cards, and license plates issued by the department of safety;

- (B) E-Z Pass transponders;

- (C) Identification cards or badges issued to employees or contractors;

- (D) Insurance benefit cards;

- (E) Identification cards issued by public and private schools and educational institutions;

- (F) Benefit cards issued in conjunction with any government-supported aid program;

- (G) Credit, debit, and financial account cards;

- (H) Licenses, certificates, registrations, or other means to engage in a business or profession regulated by the state or its political subdivisions; and

- (I) Library cards issued by any public library.

(4) "Personal information" means information that can be used to identify an individual. Such information includes an individual's name, address, telephone and cellular telephone number, social security number, credit card and financial account numbers, driver's license number, e-mail address, date of birth, race, religion, ethnicity, nationality, political affiliation, photograph and digital image, fingerprint or other biometric identification, and any other unique personal identifier or number;

(5) "RFID" or "radio frequency identification" means technologies that use radio waves to identify individual physical objects;

(6) "Tracking device" means any item or application that is passively or actively capable of transmitting unique identification or location information. Tracking devices shall include devices that use radio frequency identification technology; tracking device shall not include bar codes or similar markings that do not transmit information or commercial mobile radio service as described in 47 U.S.C. section 332;

(7) "Universally accepted symbol" means a graphical system designed to provide a standard way to show the presence of an RFID transponder, its frequency, and data structure;

SECTION 3.

(a) No consumer product or identification document, to which a tracking device or devices have been affixed or implanted, shall be sold or offered for sale or provided to a consumer without a label containing consumer notice of the RFID. Consumer products offered for loan or rental may include the following notice in lieu of a label: "This (specify product type) may contain a radio frequency identification chip or other tracking device which contains a unique identification number that can be read without your knowledge if it is brought within range of a reader device." Any label or notice provided pursuant to this section shall be given in a clear and conspicuous manner.

(b) Identifying labels shall be affixed to the consumer product, identification document, or its packaging, by the entity that implants the tracking device in the product or by the entity that imports products that contain tracking devices.

SECTION 4.

(a) The state or a political subdivision, department, or agency shall not issue, or permit others to issue on its behalf, any identification document that contains a tracking device or uses tracking devices to locate an individual, either directly or indirectly through other persons, except in the following circumstances:

(1) When the tracking device is implanted in an identification document that is to be used on a toll road or bridge owned or operated by the state or a political subdivision, department, or agency thereof, but only for the specific purpose of collecting funds for the use of that road or bridge;

(2) An identification document that is issued to a person for the limited purpose of facilitating secure access by the identification document holder to a secured public building or parking area; or

(3) The identification document is part of a contactless identification document system used by the state or a political subdivision, department, or agency of the state that is operational and in use prior to January 1, 2007.

(b) No identification document permitted under this section shall contain, transmit, or enable the remote reading of any personal information other than a unique personal identifier number issued by the state or a political subdivision.

(c) This section shall not apply to the court authorized use of tracking devices by law enforcement officials.

SECTION 5.

(a) Any person convicted of violating this part shall be guilty of a Class B misdemeanor subject to a fine only. Each such act shall constitute a separate offense.

(b) A violation of this act is also an unfair or deceptive act or practice in violation of title 47, chapter 18, part 1.

SECTION 6. This act shall take July 1, 2008, the public welfare requiring it.